

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare-East Godavari District- Revision Petition filed U/S 6 of A.P.S.A.L.T.R 1959 by Smt N.Simhachalam W/o Kanakam R/o Gokavaram (M) East Godavari District against the orders of the Agent to Government , Rampachodavaram , East Godavari District in C.M.A No: 2/2004 Dt: 26-06-2004-Allowed – Orders - Issued.

SOCIAL WELFARE (LTR-2) DEPARTMENT

G.O.Ms No: 71

Dated:20-06-2009
Read the following:

1. From Sri K.Venkatesh & M.Babji Council for the Petitioner, Revision Petition dated:15-03-2005
2. Government Memo No.3156/LTR-2/2005 dated:19-04-2005 addressed to the Collector, East Godavari District.
3. From PO,ITDA,R.C.Varam Ref.CMA/2/2004 dt.16.6.05.
4. Government Letter No: 3156/LTR-2/2005 dated:30.12.05, 07.02.06, 15.07.06, 11.01.07, 25.01.07, 21.08.07, 14.08.08.
5. Government Telegram No.3156/LTR-2/2005 dated:10.09.07.
6. Government.Memo No.3156/LTR-2/2005 dated: 18.03.08.

ORDER:

In the reference 1st read above Smt N.Simhachalam W/o Kanakam has filed a Revision Petition before the Government against the Orders of the Additional Agent to Government Rampachodavaram in C.M.A No: 2/2004 dated: 26-06-2004 in respect of land measuring Ac:0.51 and Ac:0.19 covered by R.S.No.59/4, 59/5 of Yamanapalli (V) Gangavaram(M) East Godavari District. The main grounds of the appellant in Revision Petition among others are as hereunder:

1. The appellate authority failed to see that the transaction had taken place prior to the commencement of LTR.
2. The order of the appellate authority is contrary to law and settled principle that the regulations have only prospective effect and does not affect the completed transactions of transfer.
3. The appellate authority failed to consider the long standing possession of the petitioner over the land.

2. The brief history of the case is that on a complaint made by tribal petitioner viz., Kosu Jagganna Dora S/o Buchannadora R/o Rajupetaloddi village that the non-tribal respondent Pudi Ramulu S/o Appanna R/o Kamarajupeta was in illegal possession of land belonging to his grandmother Sarapu Pottamma (mother's mother) measuring 0.70 cents in Sy.No.59/4 (0.51 cents) and 59/5 (0.19 cents) situated in Yamanapalli village of Gangavaram Mandal of East Godavari District, the Special Deputy Collector (TW) Rampachodavaram initiated action under LTR Act in LTRP No.22/96 and passed orders on 8.12.1999 in favour of the tribal petitioner holding that the PS land in Sy.No.59/4 measuring 0.51 cents and Sy.No.59/5 measuring 0.19 cents were purchased by non-tribal Bonumarthi Narayanamma through registered sale documents No.2477/42 and 457/43 respectively. Later, another non-tribal viz., Yerra Sangham purchased these lands from Bonumarthi Narayanamma through registered sale document No.1306/58, dt.21.2.1958 and subsequently by the non-tribal respondent Pudi Ramulu on 5.12.1963 vide registered sale deed No1847/63 but as per Adangal extract furnished by Village Administrative Officer, the Settlement Pattedar was tribal Sarapu Pottamma.

3. Smt.Nadiminti Simhachalam W/o Kankam, Legal Representative of non-tribal respondent Pudi Ramulu filed Appeal before the Agent to Government, East Godavari District arguing that the above orders were not valid as per law as the respondent Pudi Ramulu died on 22.11.1999 but orders were passed on 8.12.1999.

Hence, the Agent to Government, East Godavari District remanded the case to the lower court on 7.7.2001.

4. The Special Deputy Collector (TW) Rampachodavaram reopened the case, based on the orders of the Agent to Government in CMA No.5/2000,dt.7.7.2001 impleaded Legal Representative of Pudi Ramulu viz., Smt.Nadiminti Simhachalam and heard the case. The Special Deputy Collector (TW) Rampachodavaram allowed the case in favour of non-tribal respondent on 30.6.2003 on the following findings:

- i) Vide sale deed No.2477/42, dt.21.09.1942, Bonumaddi Narayanamma purchased land measuring Ac.0.51 in Sy.No.59/4 from Bodduru Kannayya S/o Daliguruvu. Vide sale deed No.457/43, dt.15.2.1943, Bonumaddi Narayanna W/o Seetanna purchased the land measuring Ac.0.19 in Sy.No.59/5 from Bayyapu Venkanna S/o Tammayya. As per recitals, the vendors name was entered in revenue records.
- ii) Vide sale deed No.1386/58, dt.21.2.1958, Yerra Sangam S/o Somayya purchased the above lands from Bonumaddi Narayanamma.
- iii) Vide sale deed No.1847/63. dt.5.12.1963, Pudi Ramulu S/o Appanna purchased the same lands from Yerram Sangam and boundaries were tallied.
- iv) The adangal extract given by Village Administrative Officer shown the lands in Sy.No.59/4 and 59/5 was registered in the name of Sarapu Pottamma as Pattedar and Pudi Ramulu as enjoyer but fasali year not mentioned. Further, discrepancies noticed such as in Col.No.15 i.e. nature of enjoyment – it was noted as Nellipudi village, in Col.No.4 i.e. land not fit for cultivation – it was noted as Ac.0.51 and Ac.0.19 respectively and in Col.No.5 i.e. land fit for cultivation – the same extents were shown; name of ayacut and area under ayacut were not mentioned.
- v) On the other hand, the adangal extract of F 1390 (1980) shown the land in Sy.No.59/4 and 59/5 registered in the name of Bayyapu Venkanna S/o Suryarao as pattedar and enjoyer and the same was confirmed in adangals of other fasalies. Hence, it was concluded that the adangal extract filed by tribal petitioner was fabricated one and not genuine while the adangal filed by respondent was genuine and the pattedar for S.No.59/5 was Bayyapu Venkanna while for S.No.59/4 Bayyapu Venkanna might have sold to Bodduru Kannayya prior to 1942, from whom Banumaddi Narayanamma purchased on 21.9.1942.
- vi) All the sales held among non-tribals hence possession of non-tribal respondents was valid.

5. Aggrieved by the orders of Special Deputy Collector (TW), the tribal Appellant Kosu Jagganna Dora filed Appeal before the Additional Agent to Government and Project Officer, ITDA Rampachodavaram in CMA No.2/2004. The Additional Agent & Project Officer, ITDA Rampachodavaram heard the Appeal and passed orders on 26.6.2004 in favour of tribal appellant as under:

- a) The Registered Sale Deeds 2477/42 and 457/43 did not reveal how the original vendors got title over the lands nor mentioned that the vendors were Settlement Pattedars.
- b) The Adangal Extract produced by the respondent shown that Bayyapu Venkanna was Pattedar for both the S.Nos.59/4 and 59/5 which was contrary to the Registered Sale Deed No.2477/42 which mentioned vendor's name as Bodduru Kannayya. There was no recorded evidence to show relationship between Bodduru Kannayya and Bayyapu Venkanna. Mere recital as Bayyapu Venkanna as Pattedar in the absence of any proof to such Patta does not carry any legal weight.

- c) The non-entry in columns in correct manner by revenue staff is not a ground to disbelieve the evidence produce by tribal. The Adangal extract given by VAO shown the name of grand mother of tribal Appellant.
- d) The burden is on the non tribal claimant to prove his legal possession and until the contrary is proved, the land held by non-tribal and came to his possession through a transfer in violation of LTR.

6. In the reference 2nd read above, the Collector, East Godavari District was requested to furnish parawise remarks and case records and the same were furnished by the Project Officer, ITDA, Rampachodavaram in the reference 3rd read above. After examination of the case records notices were issued to the concerned to attend the hearing of the Revision Petition on 28.1.06, 18.2.06, 10.8.06 and finally on 23.8.08 vide the reference 4th read above. The Petitioner was present on 16.6.2007 and the Counsel for the Petitioner was present on 23.8.2008 and argued the case corroborating grounds urged in the Revision Petition.

7. Government after careful examination of the material evidence on records found that “in the 1st instance, the Special Deputy Collector (TW) while agreeing to the registered transactions from 1942 among non-tribals, relied upon the Settlement Adangal submitted by tribal petitioner and allowed the case in favour of tribal petitioner Kosu Jagganna Dora.

In the 2nd instance, the Special Deputy Collector (TW) found the Adangal submitted by tribal as not genuine due to discrepancies like fasli year not mentioned, patta numbers not mentioned, particulars not filled in correct columns and held the adangal extracts filed by non-tribal as genuine.”

8. When the matter was appealed by tribal, the Additional Agent & Project Officer, ITDA Rampachodavaram held the non-tribal respondent failed to prove as to how the original vendors of sale deeds executed in 1942 and 1943 got title over the lands and that they are not Settlement Pattedars and until the contrary is proved, the possession is in violation of Land Transfer Regulation .

9. The basic point that arose for concluding the case is possession of land by non-tribals from 1917 to 1942 as the tribal contended that the land belonged to his grandmother i.e. mother's mother and subsequently held by his father which later went into the hands of non-tribals in violation of Land Transfer Regulation. In support of his contention, he submitted a copy of Settlement Adangal issued by Village Administrative Officer in the name of his grand mother Sarapu Pottamma. On verification of the records, the counsel for tribal petitioner filed a petition before the Special Deputy Collector (TW) on 24.10.1996 stating that “it is therefore necessary that pre-settlement records of 1932 i.e. 1902 which disclose an important fact that in between 14.8.1917 till 1932 the said lands were held by the petitioner's family members and suppressing that fact, the respondent somehow got incorporated their names in the settlement register and now taking the claim that the lands never belongs to tribals. Under the said circumstances, it is therefore just and necessary that the Hon'ble Court may be pleased to direct the Mandal Revenue Officer, Gangavaram to produce the settlement record of 1902 and also 1932 to enable this court to adjudicate the petitioner's claim under Act 1 of 1917 as amended by Regulation 1 of 1959.” This goes to show that the non tribal vendor of sale deeds in 1942 and 1943 were Settlement Pattedars. The Special Deputy Tahsildar (TW) Gangavaram in his letter dated 5.6.1997 informed the Special Deputy Collector (TW) Rampachodavaram that the entire record of Mandal Revenue Officer's Office Gangavaram was gutted in fire accident took place in the year 1989 in which the pre-settlement record pertaining to Yamanapalli and Surampalem villages was also there.

10. From the above examination, the non-tribal vendors of 1942 and 1943 sale deeds were Settlement Pattedars and the subsequent transactions held among non-tribals through registered sale transactions prior to the commencement of Regulation 1/1959 as amended by Regulation 1/70 will not hit under Land Transfer Regulations and is hence valid since the LTR operates prospectively and will not adversely affect

completed transactions of transfers taken place prior to enforcement of regulations – AIR 1996 SC 224, AIR 1982 Andhra Pradesh 1 (FB) and 2000 (5) ALD 588.

11. Therefore Government set aside the orders of the Additional Agent to Government and Project Officer, ITDA, Rampachodavaram in CMA No.2/2004 dt.26.6.2004 and allowed the Revision Petition accordingly.

12. The Collector, East Godavari District/Additional Agent to Government, Rampachodavaram is requested to take necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

A.K.TIGIDI,
PRL. SECRETARY TO GOVERNMENT.

To:

The Collector, East Godavari District .

The Additional Agent to the Government,
Rampachodavaram, East Godavari District.

The Special Deputy Collecteor(T.W.),
Rampachodavaram, East Godavari District.

The Mandal Revenue Officer, Gangavaram(M),
East Godavari District.

Sri Kosu Jagganna Dora, S/o Buchannadora,
R/o Yamanapall (V), Gangavaram(M), East Godavari District.

Smt.N.Simhachalam, W/o Kanakam,
R/o Gokavaram(M), East Godavari District.

Copy to P.S. to M(T.W.& RIAD)/ P.S. to Secy(T.W.)
S.F./S.C.s

//FORWARDED BY ORDER//

SECTION OFFICER